

CASE NO.: 5:18-cv-00511-FL

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<sup>1</sup> Plaintiff filed her Complaint (Doc. 1) in the United State District Court for the Northern District of Alabama, Western Division, on November 21, 2017. Plaintiff filed her Amended Complaint (Doc. 4) on December 6, 2017.

To the contrary, Plaintiff's allegations, taken as true for purposes of this Motion to Dismiss, establish that the text messages were technical alerts sent to the telephone number in question for a prior user and not randomly generated or sequential numbers. Further, Plaintiff's conversion claims fail as a matter of either Alabama or North Carolina law because she was never deprived of physical possession of the cellular telephone at issue.

In further support of this Motion, GE adopts and expressly incorporates herein its Memorandum of Law in Support of Motion to Dismiss, which is being filed contemporaneously with this motion.

WHEREFORE, GE respectfully requests that this Court enter an Order dismissing Plaintiff's First Amended Complaint with prejudice.

Respectfully submitted this the 7<sup>th</sup> day of December, 2018,

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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing document was electronically filed with the Clerk of Court using the CM/ECF System, which will send notification of such filing to all counsel of record listed below who are registered with the CM/ECF System:

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This the 7<sup>th</sup> day of December, 2018.

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